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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/689,383	10/20/2003	Charbonneau Joan	64837/007	4159
29493	7590	10/31/2005	EXAMINER	
HUSCH & EPPENBERGER, LLC 190 CARONDELET PLAZA SUITE 600 ST. LOUIS, MO 63105-3441			JOHNSON, JERROLD D	
			ART UNIT	PAPER NUMBER
			3728	

DATE MAILED: 10/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/689,383

Applicant(s)

JOAN, CHARBONNEAU

Examiner

Jerrold Johnson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 23 September 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### **Withdrawal of Rejection of claims 2-4**

The rejection of claims 2-4 over North et al. has been removed. Webster's online dictionary provides the following definition of telescoping: to slide or pass one within another like the cylindrical sections of a collapsible hand telescope. This very specific movement is not shown in the reference to North et al., and for that reason the rejection is removed.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mini et al. US 4,978,021 in view of Gahm US 3,285,459, Zanegood US 2,940,447 and Douglas US 1,040,652.

Mini discloses a collapsible cup comprising a base member 28, a plurality of telescoping components 14, 16, 18, and 20, the telescoping component 14 is attached to

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said base member to form an impervious junction between said base member and said one of said plurality of telescoping components. Mini further discloses a cover 22.

Mini does not disclose the telescoping components adapted to form a substantially liquid-tight seal upon telescopic extension, by friction-fitting said plurality of telescoping components together, but instead discloses the use of a liner 30. Mini, however, does disclose the use of different materials such as plastics in col. 3, line 19.

Gahm shows this use of plastic materials in a collapsible cup used specifically with pill taking. The plastic telescoping components are adapted to form a substantially liquid-tight seal upon telescopic extension by friction-fitting said plurality of telescoping components together, as is claimed.

Mini also does not disclose a vented pocket.

Zanegood shows a vented pocket which is usable within the topmost telescoping component 20 of Mini.

To the extent needed, Douglas provides extrinsic evidence that for collapsible cups comprising telescoping components, if the telescoping components increase in size from top to bottom, an element 16 disposed within the topmost component (14 in the case of Douglas will not inhibit the telescoping of the cup, which would not be the case in collapsible cups where the telescoping sections decrease in size from top to bottom.

Accordingly, it would have been obvious to one of ordinary skill in the art to have made the collapsible cup of Mini from other materials such as is suggested in his patent and as is specifically taught by Gahm so as to provide a cup where the telescoping

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components are adapted to form a substantially liquid-tight seal upon telescopic extension by friction-fitting said plurality of telescoping components together and a liner would be unnecessary.

It further would have been obvious to one of ordinary skill in the art to provide a collapsible cup of this type, which are known to be of great benefit to pill takers, with a vented pocket for the disposal of a pill as is taught by Zanegood, so as to make the pill taking process easier for those who have difficulty taking pills.

And, as the collapsible cup with a vented pocket is obvious, the method of using it (placing a pill in the vented pill pocket) as is set forth in claim 1 is also obvious.

Re claim 2, the telescoping components of Mini, et al. are all of a series of cylinders, as is claimed.

Re claims 3 and 4, see the rejection of claim 1.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jerrold Johnson whose telephone number is 571-272-7141. The examiner can normally be reached on 9:30 to 6:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on 571-272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JDJ 



Mickey Yu  
Supervisory Patent Examiner  
Group 3700